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17 IN THE UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

19 COOPER GILLESPIE, LEIGHTON
20 WYNTER, CHRISTOPHER CASTLE,
MICHAEL CONWAY, WILLIAM SEAN
21 DUNEGAN, SKYLER FISK, JEFF FOLZ,
RANDY HILL, AND DENNIS WALSH, on
22 behalf of themselves and all others
similarly situated,

23 Plaintiffs,

24 v.
25

26 LUMENIS INC., and DOES 1 through 10
inclusive,

27 Defendant.

Case No. 3:17-cv-2080-EMC

28 **STIPULATION AND [PROPOSED] ORDER
TO SHORTEN TIME FOR HEARING
PLAINTIFFS' MOTION FOR
SETTLEMENT APPROVAL**

1 Plaintiffs COOPER GILLESPIE, LEIGHTON WYNTER, CHRISTOPHER CASTLE,
2 MICHAEL CONWAY, WILLIAM SEAN DUNEGAN, SKYLER FISK, JEFF FOLZ, RANDY HILL,
3 AND DENNIS WALSH on behalf of themselves and the opt-in Plaintiffs, and Defendant LUMENIS
4 INC. (collectively, the “Parties”), by and through their counsel of record, hereby stipulate and agree
5 as follows:

6 1. On April 13, 2017, Plaintiffs filed a Putative Collective Action Complaint for
7 Damages and Restitution (“Complaint”) against Defendant, alleging misclassification of its Customer
8 Service Engineers as exempt employees. (ECF 1)

9 2. On May 16, 2017, Defendant filed an Answer to the Complaint. (ECF 11)

10 3. On July 10, 2017, the Parties filed a Joint Stipulation for Conditional
11 Certification and Notice. (ECF 22)

12 4. On July 17, 2017, the Court granted conditional certification and ordered notice
13 to proceed. (ECF 27)

14 5. On July 17, 2017, the Court also ordered the Parties to attempt settlement
15 through a private alternative dispute resolution process to be conducted on September 18, 2017, with
16 mediator Steve Rottman. (ECF 28)

17 6. On July 27, 2017, the Parties appeared before the Court for a Case Management
18 Conference (“CMC”). At the CMC, the Court stayed formal discovery in anticipation of the September
19 18, 2017 private mediation, and set a further CMC for November 16, 2017, with a joint CMC statement
20 to be filed no later than November 9, 2017. (ECF 32)

21 7. On September 18, 2017, the Parties attended a full day mediation with mediator
22 Steve Rottman, but were unable to fully resolve their disputes at that time.

23 8. On October 17, 2017, the Court Ordered a continuance of the CMC, stay of
24 formal discovery deadlines, and tolling in light of the Parties’ scheduled mediation on November 15,
25 2017. (ECF 39)

26 9. On November 15, 2017, the Parties attended a second day of mediation and
27 successfully arrived at a Memorandum of Understanding (“MOU”) as to the material terms of a
28 settlement at that time.

1 10. On November 17, 2017, Plaintiffs filed a Notice of Settlement with the Court.
2 (ECF 41)

3 8. On November 27, 2017, the Court issued a Clerk's Notice setting a March 1,
4 2018 hearing date for Plaintiffs' motion for settlement approval ("Motion"). (ECF 43)

5 9. The Parties have been continuing to negotiate the terms of a final settlement
6 agreement since they finalized the MOU. However, the Parties require additional time to finalize the
7 settlement agreement and obtain a fully executed agreement given the number of signatories to the
8 settlement agreement.

9 10. The Parties anticipate that Defendant will not oppose Plaintiffs' Motion.

10 11. The Parties stipulate that Plaintiffs will file their Motion on or before Friday,
11 February 2, 2018, and that Plaintiffs' Motion may be heard on March 1, 2018 at 1:30p.m. in Courtroom
12 5 as presently scheduled. As Defendant does not anticipate any opposition to this Motion at this time,
13 the Parties are amenable to this shortened time for hearing the Motion. The Parties require no other
14 modifications to the briefing schedule.

15 All signatories listed, and on whose behalf the filing is submitted, concur in the filing's content
16 and have authorized the filing.

17 IT IS SO STIPULATED.

18 Dated: January 25, 2018

19 _____
20 /s/ Ashley A. Halberda
21 Ashley A. Halberda
CAROTHERS DISANTE &
FREUDENBERGER LLP
Attorneys for Defendant LUMENIS INC.

22 Dated: January 25, 2018

23 _____
24 /s/ Rachel Terp
25 BRYAN J. SCHWARTZ
RACHEL M. TERP
BRYAN SCHWARTZ LAW
Attorneys for Plaintiffs

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.
2

3 Dated: 1/31, 2018

4 United States District Judge

5
6 Ann oppose to the motion for settlement
7 approval shall be filed by Feb. 12, 2018.
8 No reply brief unless otherwise ordered.
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